

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

APPROVED 4/27/10

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 12th day of April 2010 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President	Cecil E. Leonard
	Hannibal Costa	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo and Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Councilor Lambert requested removal of item A-8, Distribution of Municipal Budget and Budget Committee Docket from the Consent Agenda and considered after item I-2. Councilor Durfee requested removal of item A-9, Distribution of Quarterly Investment Reports from the Treasurer for continuance to the next meeting. Solicitor Teitz requested removal of item A-6, Petition for Verizon New England and Narragansett Electric for Joint Poles and Relocation of One Joint Pole.

Councilor Durfee made a motion, seconded by Councilor Roderick the Consent Agenda be approved minus the three items. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

- a. Approval of Minutes from Regular Council Meeting March 22, 2010 Councilor Arruda abstained, absent
- b. Approval of Minutes from Special Council Meeting March 29, 2010
- c. Approval of Executive Session Minutes of March 29, 2010
- d. Approval of Minutes from Special Council Meeting April 5, 2010

A-2-Receipt of Minutes from Various Board and Commissions:

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|--|--------------------------|-----------------------------|
| a. Economic Development Commission (2) | e. Open Space Commission | i. Municipal Bldg Adv Comm. |
| (3) | | |
| b. Wastewater Management Commission | f. Prevention Coalition | |
| c. Harbor Commission | g. Tree Commission | |
| d. Tiverton Arts Council | h. Planning Board | |

A-3-Correspondence:

- a. Received from Town of Middletown– Resolution Opposing Transfer of New Sakonnet river Bridge to RI Bridge and Turnpike Authority and Opposing Tolls
- b. Received from Town of Portsmouth – Resolution Supporting Legislation Designed to Limit Size of Ships Allowed to Regularly Pass Beneath State’s Bridges
- c. Received from Town of Foster – Resolution Encouraging Return of 34th America’s Cup Challenge to Newport
- d. Received from Town of Foster – Resolution in Opposition to Mandatory Contract Continuation Legislation

- e. Received from City of Newport – Invitation to Attend Aquidneck Island National Police Parade Sunday, May 2, 2010
- f. Received from Armenian National Committee of RI – Request to Have Armenian Flag Raised Proclaiming April 24, 2010 as Armenian Genocide Remembrance Day
- g. Received from Town of Burrillville – Resolution Supporting Legislative Amendments to Protect RI Cities and Towns and Public Officials/Employees
- h. Received from Town of Burrillville – Resolution in Opposition to Mandatory Contract Continuation Legislation
- i. Received from Smithfield School Department – Resolution Opposing Contract Continuation
- j. Received from Smithfield School Department – Resolution Opposing Binding Arbitration

A-4- Approval of Tax Assessor Abatements

A-5-Teresa Cordeiro – Megan L. Cordeiro Memorial Foundation – Request Permission to Hold Bike Ride/Walk on October 2nd with Rain Date of October 3rd to Benefit Memorial Foundation – Recreation Committee Approved

A-7-Distribution of Bay Street Residential Remediation Weekly Meeting 2/17-3/31/2010

A-10-Economic Development Commission – Authorization for Resolution Supporting Town Council Legislation Relative to Sakonnet River Bridge

Approval of Petition for Verizon New England and Narragansett Electric for Three New Joint Poles and Relocate One Joint Pole on Cornell Road

a. Response From S. Berlucchi, DPW Director

Solicitor Teitz requested this item be continued to the next meeting. There have been requests for mini wireless sites on several poles throughout the Town, have done some research, not sure if the Town has jurisdiction to regulate or charge.

Councilor Durfee made a motion, seconded by Councilor Costa to continue the petition for joint poles to the next meeting. Motion passed unanimously.

Town Administrator, J. Goncalo

a. Distribution of Municipal Budget

b. Distribution of Budget Committee Docket

Councilor Durfee made a motion, seconded by Councilor Roderick to move this item after item I-2. Motion passed unanimously.

Town Treasurer, P. DiMattia – Distribution of Quarterly Investment Reports

Councilor Durfee made a motion, seconded by Councilor Roderick to continue to the next meeting the distribution of quarterly investment reports. Motion passed unanimously.

PUBLIC HEARINGS- ADVERTISED

Tiverton Land Trust – Sound Variance for Country Day at Pardon Gray on September 11th and 12th

Council President Bollin opened the advertised Public Hearing on the request for a Sound Variance, asking for comments. There being no comments, President Bollin closed the Public Hearing.

Councilor Roderick made a motion, seconded by Councilor Costa to grant the request for a Sound Variance, subject to meeting all legal requirements. Motion passed unanimously.

The Town Council was sitting as the Board of Licensing Commissioners:

BOARD OF LICENSING COMMISSIONERS AND PUBLIC HEARINGS:

M.C. & Sons Excavating, LLC, 300 Hurst Lane – Request Approval of Late Renewal of Street Excavator's License from December 1, 2009 to November 30, 2010 – Subject to Meeting All Legal Requirements

DPW Director Berlucchi did not see any problems with renewing this request; contract for sewers on Canonicus Street was extended.

Councilor Durfee made a motion to grant the renewal of a Street Excavator's License to M.C. & Sons Excavating, LLC, subject to meeting all legal requirements. Seconded by Councilor Roderick motion passed unanimously.

Charles R. Mulcahy, 65 Beech Avenue – Request Approval of Annual Renewal of Private Detective License – April 13, 2010 to April 12, 2011 – Subject to Meeting All Legal Requirements

Police Chief Thomas Blakey, due to another commitment, was not available to answer any Council questions.

Councilor Roderick made a motion, seconded by Councilor Durfee to continue the request for Renewal of a Private Detective License to Charles R. Mulcahy to the next meeting, subject to hearing from Chief Blakey. Motion passed unanimously.

APPOINTMENTS & RESIGNATIONS:

Zoning Board of Review – One Vacancy 2nd Alternate –Term to Expire June 2011

a. Matthew J. Cayer, 35 Wampanoag Lane

b. Wendy Taylor Humphrey, 3198 Main Road

Town Clerk Nancy Mello reminded the Council this was for interviews as there were others also interested that have not come forward.

President Bollin asked Mr. Cayer the question usually asked by Councilor Leonard, what could you contribute to this board. Mr. Cayer has been in business his adult life, has been on both sides of a Zoning issue, and has a good feel for what the State, Town residents are looking for. Would make it his duty to read the Comprehensive Plan. President Bollin thanked Mr. Cayer for his time.

Ms. Humphrey is an attorney, has a good grasp of the law, has read the Comp. Plan, Zoning and Charter. Has attended meetings and is familiar with the process. Practices law in Providence, have not served on another board and are a volunteer with wildlife rehabilitation. President Bollin thanked Ms. Humphrey as well.

UNFINISHED BUSINESS:

Town Council – Standby Motion to Approve Excess Levy for Financial Town Meeting – Continued From March 22nd Council Meeting

Councilor Lambert made a motion to move this item to be considered with item I-2. Seconded by Councilor Roderick motion passed unanimously.

NEW BUSINESS:

Town Clerk – Request Council Approval of Policy for Use of Town Facilities

Town Clerk, Nancy L. Mello, requested the Council approve a Policy for Use of Town Facilities. A policy was discussed in 2005 but not formally adopted. Have received increased requests for facilities usage. Solicitor Teitz, in reviewing the proposed policy, asked the Council for further direction. Does the Council want to charge applicants, if so, how much? Should there be a fee for non-profits? What about birthday parties or serving of alcohol?

President Bollin noted as far as the serving of alcohol, it is currently prohibited from being brought onto Town property so it would still be prohibited in this policy. Solicitor Teitz noted some communities have different fee structures based on the statutes. The Town does incur some cost. Councilor Durfee suggested referring this to the Administrator and the Solicitor to prepare a fee structure.

Councilor Costa made a motion, seconded by Councilor Arruda to continue to the next meeting the request for approval of Policy for Use of Town Facilities. Motion passed unanimously.

BIDS & REQUESTS FOR PROPOSALS:

Recreation Committee – Request Approval to Solicit Bids for Coating & Striping Bulgarmarsh Road Recreation Basketball Courts

Councilor Roderick made a motion, seconded by Councilor Durfee to approve the request to Solicit Bids for Coating and Striping the Basketball Courts on Bulgarmarsh Road. Motion passed unanimously.

Councilor Durfee recused herself at this time and left the Council table.

Town Administrator/Bill Gerlach – Approval of Selection and Award of Energy Service Company – Source One, Boston, MA

Bill Gerlach, at a previous Council meeting, presented an overview of the ARRA Block Grant. At the time received Council approval to solicit request for information from energy companies. Received two responses, Mr. Gerlach reviewed with the Town Administrator and are recommending Source One. They have a regional office, a leading power solution provider; will help with trying to get as much money as possible. For less than the \$13,000 covered by the base grant, Source One will run an analysis of municipal buildings, recommend renewable energy projects and will write the grant for competitive parties, \$1.3 million available. Has extensive experience with this grant program.

Councilor Arruda made a motion, seconded by Councilor Lambert to approve the request for award of bid to Source One, Boston, MA.

Resident Deb Pallasch asked the Town Administrator if this included the schools. The Town Administrator's response was no. Mr. Gerlach noted in the preliminary review the best opportunities were in the municipal buildings and the type of the building was irrelevant.

Councilor Costa wanted to know the total commitment of the Town with regard to financing. Mr. Gerlach noted there would be a series of meetings and facilities tours, energy usage data for the Town to review; certain criteria go into the consideration of the grant. If awarded then the next step in the process would occur. Councilor Costa made a suggestion the schools be kept in mind if possible. Councilor Roderick questioned the up front cost. Mr. Gerlach noted there were three different grant pools for this type of engagement. This process will also provide a list of opportunities over and above the ARRA grant; will look at other grants as well. Councilor Costa suggested the inclusion of schools might add weight.

Motion passed on a vote of 5-1; Councilor Leonard abstained (late arrival).

Councilor Durfee returned to the Council table at this time.

DPW Director, S. Berlucchi – Requests Approval of (1) Year Extension of DPW Labor & Materials Bids

a. Bituminous Concrete Paving –PJ Keating Co.

b. Road Materials – G. Lopes Construction, Inc.

c. Landfill Cover – G. Lopes Construction, Inc.

d. High Density Polyethylene Pipe – EJ Prescott, Inc.

e. Unleaded Gasoline and Dyed Off – Buckley Energy Group, Inc. Road Diesel Fuel

f. Concrete Block Catch Basin Structures

DPW Director Berlucchi requested one-year extension options when this bid was awarded last year. Called competitors about the trends, most were going up. In the best interest of the Town to extend at this time, same prices as last year's contract.

Councilor Durfee made a motion, seconded by Councilor Costa to extend the bid for one year to the companies as listed Motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Discussion on Flood Disaster Recovery

Received many compliments, emails and phone calls on the flood disaster response particularly by the Fire Dept. and the Dept. of Public Works (DPW). Pumped 250 basements, as of last Thursday, 147 residents applied for FEMA assistance. Town preparing our own request, four roads suffered severe damage, problem with flooding on Robert Gray and Colonial Avenue. A severe washout on Old Colony is potentially undermining sewer line, FEMA engineers directing the Town on this issue. Getting approval from RI DEM to correct the problem along the railway line. DPW Director Berlucchi also noted the problem with the 24" interceptor line to Fall River. In four instances the line is close to being undermined, one area needs immediate action. Estimated \$9,000 needed for a geo expert to come up with a design. Could cost \$50,000 up to \$100,000. No choice if line breaks raw sewage will run into the Bay. President Bollin noted the money should be coming from the TIF bond that was required by the DEM. Director Berlucchi noted the money would have to be replaced trying to get through FEMA. Councilor Durfee requested CRMC be made aware of any action taken. Director Berlucchi informed all work is being done with State approval, have approval for emergency repair.

ANNOUNCEMENTS:

1. Reminder about the driving class at the Senior Center on Saturday from 8-12:15 pm for people age 50 and over. Understand there could be insurance discounts.
2. Will get \$170,000 in Motor Vehicle tax payments for fourth quarter.
3. Last day for quarterly tax payments, \$87,000 ahead of last year.
4. Library flood relief benefit, coupons for dining at Applebee's, save 15% from 5:00 to 9:00 pm on April 22nd.
5. Disclosure statement was approved by the Department of Administration.

Authorization to Request From Department of Administration the Allowable Tax cap Overage

Town Administrator, J. Goncalo

a. Distribution of Municipal Budget

b. Distribution of Budget Committee Docket

Town Council – Standby Motion to Approve Excess Levy for Financial Town Meeting – Continued From March 22nd Council Meeting

Town Administrator Goncalo, from the last meeting was seeking approval from the Dept. of Administration to see our liability in exceeding the cap. Councilor Durfee said the question was to what extent is the Town eligible to exceed the cap. Councilor Costa asked if this was for information. Town Administrator responded yes. Councilor Durfee noted it was just a letter of inquiry.

Councilor Lambert disagreed with the need for certification to exceed the cap at this point. The Budget Committee proposed budget is under the cap, the budget proposed by the Town Administrator exceeds. Based on action by the General Assembly the Motor Vehicle tax has to be factored in. All the Budget Committee needs to do is provide a reasonable and informed estimate of revenues. Other problems include how to make out the checklist to exceed, has certain bold lettering, the amount by which exceeds the cap and total override requested. Problem is what numbers are we going to put in; the Budget Committee number is zero, or the Town Administrator latest number. The checklist specifically refers to a prepared budget. According to section 703 of the Charter, the budget comes from the Budget Committee not the Town Administrator. Don't understand how the Council can comply with the numbers provided by the Town Administrator. If we use the Town Administrator numbers, how can we justify ignoring the School Committee numbers? Just raising the question points out the problem. What do we do after the certification, assuming we get one? Even the letter sent to the Towns is a form letter. Using a copy of a letter sent to Gloucester, notes this excess levy authorized by the Dept. of Administration, needing 4/5 of the governing body and the majority electorate at the Town meeting. Councilor Lambert suggested not going to the State and listed procedural problems and practical considerations. Suggested the Town Administrator provide recommendations that reasonably reflect what we can expect to receive from the General Assembly. Feels going to make a terrible mistake by going to the Dept. of Revenue.

Councilor Durfee had some issues with this, noted the docket was already closed. No one sitting here can say the Town is going to get money from the Motor Vehicle tax payments. The supplemental budget did not address next year. Don't have confidence we can come up with accurate figures that. Peder Schaefer had suggested the Town send an eligibility letter, not seeking as a waiver. Based upon the first legislation signs, not getting reimbursement. Dept. of Revenue knows what the Town is eligible for, find shocking not to seek information and disclose to taxpayers. Also has been informed some communities seek waivers after FTM.

Councilor Lambert questioned why get involved if we don't have to? Can go after the FTM, issue becomes academic. Councilor Durfee wondered what do you do at the FTM when the new Moderator is taking a position publicly that he will rule out of order if a motion made which exceeds the cap and no one knows what Town is eligible to exceed by.

Councilor Lambert raised the fact the docket is closed; the recommendation is the Budget Committees, considered the Town Administrator Budget as informational. President Bollin noted issue, if you don't have an idea what you could possibly put a levy on and the vote exceeds the Budget Committee; the Courts have seen that as being appropriated creating funding problems for portion not eligible for waiver.

Councilor Lambert stressed the point, by providing a Town Administrator budget; the Council is giving a counterproposal. President Bollin's understanding is the Town can ask for, without seeking certification, if the FTM takes a vote that exceeds. Councilor Lambert questioned what number could the Council come up with based on language in the Statute. If the Town is getting \$1.4 million in Motor Vehicle then the answer is zero. Councilor Durfee noted they would look at the total picture of the Town. Councilor Costa noted people do not want to see an increase in taxes; any number the Council would use would be subject to change.

Councilor Costa made a motion to proceed with the letter of inquiry. Councilor Arruda seconded the motion.

Councilor Leonard noted die has been cast at the last meeting the Council came up with a budget greater than the Budget Committee budget and voted to approve. Council did not record a vote to go over the cap, seems prudent to ask in advance. Don't think people will want to increase taxes more than they have to, should know how much the Town can go over by. Councilor Roderick noted the people have a right to know what the amount of money might be. The Council has a number now as a request along the Budget Committee budget and the numbers of the School budget we are dealing with.

Budget Committee Chair, Jeff Caron, noted the Budget Committee prepares the budget, which goes to the floor of the FTM. The Budget Committee reviews all requests. There is no probable cause to go to the State because the Budget Committee proposed budget is under the cap. Could be a Charter violation if the Town Council proceeds. There are no grounds to go to Providence. Last week was told there would be a meeting with the Town Administrator, Treasurer and Budget Committee Chair and they would see if there was need. The motion and wording on the floor do not reflect that. Want it on record, hoping to participate in this process, need minutes of this meeting. Chair Caron noted the Budget Committee is under cap by approximately \$27,000.

Chris Cotta, former Chair of the Budget Committee for several years, noted this was very difficult. The Council is seeking guidance, has a fiduciary responsibility. The Budget Committee is charged with recommending. Mr. Cotta applauded the Council for the appropriate request for guidance.

Councilor Costa moved the question.

President Bollin was under the assumption that nothing would take place prior to a meeting with the Town Administrator and Treasurer; under the impression there would be a meeting prior to us going to the State, even just to ask for information.

Administrator Goncalo responded no vote was taken at the last meeting relative to that type of meeting. The numbers used were those given by the Budget Committee, which had to go in today. The Council President signs a disclosure statement with the proposed numbers, the Budget Committee numbers. That was all that happened. President Bollin was disappointed; thought there was going to be a meeting between the three principals, outcome irrelevant, should take place. There was no vote to be taken on the disclosure statement. Councilor Lambert, in response to an earlier comment, noted the Council has to develop some process and procedure so the people will know what the Council is doing. Councilor Durfee noted the regulations were promulgated but not the procedure. Not seeking to waive, seeking a request of eligibility.

Motion carried on a vote of 5-2, Councilors Roderick and Lambert opposed.

COUNCIL ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Councilor Leonard wanted to recognize, Kathy Thiboutot, who runs Healthy Haven on Main Road. This local business owner will be featured on ABC television for her work in helping people with celiac disease, a serious food allergy.

CLOSED EXECUTIVE SESSION:

1. Town Solicitor - Litigation – 42-46-5(a) (2)

2. Town Administrator–42-46-5(a)(2)–Collective Bargaining - IBPO, IAFF & Teamsters

3. Town Solicitor - 42-46-5(a)(6) – Prospective Business or Industry

Councilor Durfee made a motion, seconded by Councilor Arruda to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to stay in Executive Session pursuant to 42-46-5(a)(2)-Collective Bargaining- IBPO, IAFF & Teamsters. Motion passed unanimously

Councilor Durfee made a motion, seconded by Councilor Arruda to remain therein in Executive Session pursuant to 42-46-5(a)(6)-Prospective Business or Industry. Motion passed unanimously

The Council entered into Executive Session at approximately 8:40 p.m.

The Council returned to Open Session at approximately 9:30 p.m.

OPEN SESSION:

Council President Bollin announced no formal action had been taken in Executive Session.

Councilor Costa motioned to seal the minutes of Executive Session, seconded by Councilor Roderick. Motion passed unanimously.

ADJOURNMENT:

Councilor Leonard motioned to adjourn, seconded by Councilor Lambert. Motion passed unanimously.

Council adjourned at approximately 9:35 p.m.

A True Copy.

ATTEST: _____ Nancy L. Mello, Town Clerk

